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| APPLICATION NO | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------|-------------|----------------------|---------------------|------------------|
| 09 616,526 | 07 14 2000 | Nabil Abdul Malak | 11123.15US01 | 6296 |

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[REDACTED] EXAMINER

STRZELECKA, TERESA E

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

1637

DATE MAILED: 04 08 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/616,526

Applicant(s)

ABDUL MALAK ET AL.

Examiner

Teresa E Strzelecka

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133)
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b)

Status

- 1) Responsive to communication(s) filed on 13 November 2002 and 17 January 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 65-132 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 65-70,74-78,98-121,123,124,126-129,131 and 132 is/are allowed.
- 6) Claim(s) 71-73,79-97,122,125 and 130 is/are rejected.
- 7) Claim(s) 90-97 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on January 17, 2003. Amendments filed on November 13, 2002 and January 17, 2003, have been entered. Applicants cancelled claims 1-64, added new claim 65-132 (November 13, 2002) and amended claims 70, 71, 73, 75, 78, 84, 86, 87, 94, 103, 104, 106, 113, 117, 119, 122 and 130-132.
2. Claims 65-132 are pending and will be examined in this Office action.

Claim Objections

3. Claims 90-97 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claims. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claims 90, 96 and 97 depend from claim 79, which is a multiple dependent claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 71-73, 79-97, 122, 125 and 130 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A) Claim 71 is indefinite over the recitation of "cells originating from the blood". It is not clear what is encompassed by this term, i.e. it is not clear whether "originating" refers to particular types of cells, and if this is so, what types of cells (red blood cells, lymphocytes, etc.), or whether it refers to all cells that can be obtained from a blood sample.

B) Claim 91 recites the limitations "the two layers" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 91 depends from claim 90, which in turn depends from claims 67, 71, 76 or 79. Those claims contain the limitations "at least one porous collagen layer" and "a collagen membrane". Therefore it is not clear whether "the two layers" refers to two porous collagen layers or to a porous collagen layer and a collagen membrane.

C) Claim 94 is indefinite over the recitation of "The method of claim 90, comprising living cells" (emphasis added). The method can comprise steps, not objects.

D) Claim 122 is indefinite over the recitation of "cells originating from the blood". It is not clear what is encompassed by this term, i.e. it is not clear whether "originating" refers to particular types of cells, and if this is so, what types of cells (red blood cells, lymphocytes, etc.), or whether it refers to all cells that can be obtained from a blood sample.

E) Claim 125 recites the limitations "the two layers" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 125 depends from claim 124, which in turn depends from claims 100, 104, 107 or 121. Those claims contain the limitations "at least one porous collagen layer" and "a collagen membrane". Therefore it is not clear whether "the two layers" refers to two porous collagen layers or to a porous collagen layer and a collagen membrane.

6. No references were found teaching or suggesting claims 65-132. Claims 65-70, 74-78, 98-121, 123, 124, 126-129, 131 and 132 are allowed. Claims 71-73, 79-97, 122, 125 and 130 are rejected for reasons given above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa E Strzelecka whose telephone number is (703) 306-5877. The examiner can normally be reached on M-F (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached at (703) 308-1119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

April 4, 2003

Teresa Strzelecka, Ph. D.

Patent Examiner

Teresa Strzelecka
4/4/03